



BURGIS ASSOCIATES, INC.

25 Westwood Avenue
Westwood, New Jersey 07675
Phone (201) 666-1811
Fax (201) 666-2599
e-mail: jhb@burgis.com

Community Planning
Land Development and Design
Landscape Architecture

HOUSING ELEMENT AND FAIR SHARE PLAN BOROUGH OF MIDLAND PARK BERGEN COUNTY, NEW JERSEY

PREPARED FOR: BOROUGH OF MIDLAND PARK PLANNING BOARD

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**HOUSING ELEMENT AND FAIR SHARE PLAN
BOROUGH OF MIDLAND PARK
BERGEN COUNTY, NEW JERSEY**

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The original document was appropriately signed and sealed on December 19, 2008 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

Joseph H. Burgis, P.P., AICP
Professional Planner #2450

Kevin A. Kain, P.P., AICP
Professional Planner #5989

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DAVID WOSTBROCK, VICE CHAIRMAN
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JOSEPH BURGIS P.P., AICP

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INTRODUCTION

In 1975 the New Jersey Supreme Court decided in So. Burlington Cty. NAACP v. Township of Mount Laurel that every developing municipality in New Jersey had an affirmative obligation to provide for its fair share of affordable housing. In a subsequent decision in 1983, the Court acknowledged that the vast majority of municipalities in the State had ignored their constitutional obligation, and called for the State Legislature to enact legislation that would save municipalities from the burden of having the courts determine their affordable housing needs. The result was the establishment of the New Jersey Council on Affordable Housing (COAH), the state agency responsible for overseeing the manner in which the state's municipalities address their low and moderate income housing needs.

COAH had originally adopted in 1987 and again in 1994 a 'fair share' methodology to determine housing-need numbers for all municipalities in the state, and the adopted combined first and second round housing need numbers for Midland Park indicated an 80 unit affordable housing obligation. This included a 'new construction' obligation of 54 units and a 'rehabilitation obligation' of 26 units.

Midland Park received certification of a second round plan that included a vacant land adjustment, as well as credits for various group homes and for Kentshire Apartments (see Table 18 in the body of this report for details).

In December of 2004, COAH adopted new substantive (NJAC 5:94) and procedural (NJAC 5:95) rules for the period beginning December 20, 2004. These rules adjusted the second round obligation to a total of 43 new construction units and 3 rehabilitation units. However, as a result of an Appellate Division ruling, these rules were revised and adopted on June 2, 2008 (NJAC 5:97 and NJAC 5:96)(amended October 20, 2008). At that time, COAH re-adjusted all municipal first and second round housing-need new construction numbers and rehabilitation numbers and Midland Park's new construction obligation went back to 54 units. The rehabilitation share has increased to 16 units as part of the second round need.

The third round rules implement a new 'growth share' approach to affordable housing and thus represent a significant departure from the Council's first and second round rules in that the new rules link the production of affordable housing with actual development and projected growth. There are three components to the third round methodology. They include the rehabilitation share, any remaining prior round obligation for the period 1987-1999, and the "growth share." Growth share is generated by projections of residential and non-residential growth projections for the period covering January 1, 2004 to December 31, 2018. The new substantive rules state that for every four market-rate residential units projected to be constructed, the municipality shall be obligated to provide one unit that is affordable to households of low or moderate income. In addition, each municipality is obligated to provide one affordable unit for every 16 newly created jobs.

COAH has calculated that Midland Park has a 27 unit third round affordable housing obligation, inclusive of a 16 unit rehabilitation component and an 11 unit growth share component that is solely a function of projected non-residential growth (COAH estimates that by 2018 the borough will have an additional 163 jobs in the community, and this translates to 10.2 units of affordable

housing). However, the analysis provided herein indicates the borough has a 24 unit growth share obligation, consisting of a 16 unit rehabilitation component and an 8 unit growth share obligation. The details on how the borough has determined its obligation, and the mechanisms to address the obligation, are detailed in the body of this report.

SECTION I: HOUSING ELEMENT

A. COMMUNITY OVERVIEW

The Borough of Midland Park occupies an area of 1.69 square miles (1,081 acres) in the northwestern portion of Bergen County. Midland Park is primarily bound by Ridgewood on its eastern half and Wyckoff on its western half. However, it is also bound by Waldwick along its northern extent.

Access to Midland Park is provided by a number of county and state roadways. Godwin Avenue, Goffle Road, Lake Avenue, and Glen Avenue, are major county access roads. Route 17 and the Garden State Parkway, situated to the east in Paramus, and Interstate 80 to the south in Saddle Brook, offers linkage into the area's regional highway network.

Midland Park is a developed municipality with approximately 6,900 residents. The borough is characterized by its established residential neighborhoods and modest amount of industrial, commercial, and office uses. Table 1 illustrates the most recent land use data, which shows that the borough is fully developed, with 2 percent of the borough undeveloped. A review of the tax maps reveals that the 23 acres of remaining vacant land is dispersed over 40 separate lots; 37 of these lots are less than one acre in size.

The borough is an older community with over half of the housing stock constructed before 1950. These dwellings are primarily one- and two-family residences. A smaller number of multi-family residential uses also exist in the community.

Table 1
Existing Land Use - Midland Park, New Jersey

Land Use	Acreage	Percent
Residential	685	63
Commercial	70	6
Industrial	43	4
Public & Semi-Public	78	7
Utilities, Streets & Railroads	182	17
Vacant	23	2
Total	1,081	100.0

Source: Midland Park Borough Tax Records, 2006.

B. INVENTORY OF MUNICIPAL HOUSING STOCK

This section of the housing element provides an inventory of the community's housing stock, as required by the MLUL. It details housing characteristics such as age, condition, purchase/rental value, and occupancy. It also details the number of affordable units available to low and moderate income households and the number of substandard housing units capable of being rehabilitated.

1. Number of Dwelling Units. As shown in the table below, much of the borough's housing stock was constructed prior to 1960. The most substantial growth in recent times occurred between 1960 and 1970, when the number of dwelling units increased by 232. Growth slowed between 1980 and 2000. In 2000, there were 2,650 dwelling units in the borough.

Table 2
Dwelling Units (1960-2000)
Midland Park, New Jersey

Year	Total Dwelling Units	Numerical Change	Percentage Change
1960	2,237	-	-
1970	2,469	232	10
1980	2,600	131	5
1990	2,615	15	1
2000	2,650	35	1

Source: 2003 Bergen County Data Book

The following table provides details regarding the tenure and occupancy of the borough's housing stock. Between 1990 and 2000, owner-occupied units increased, while renter-occupied and vacant units decreased. Owner-occupied units represented 75% of all units, and vacant units represented 1%.

Table 3
Housing Characteristics: 1990 and 2000
Midland Park, New Jersey

Category	1990		2000	
	No. Units	Percent	No. Units	Percent
Owner-Occupied Units	1,860	71	1,983	75
Renter-Occupied Units	671	26	630	24
Vacant Units	84	3	37	1
Total Units	2615	100.0	2,650	100.0

Source: U.S. Census, 1990 and 2000.

2. Housing Characteristics. The following tables provide information on the characteristics of the borough's housing stock, including data on the number of units in the structure and the number of bedrooms.

Table 4
Units in Structure: 1990 and 2000
Midland Park, New Jersey

Units in Structure	1990		2000	
	Number	Percent	Number	Percent
One Unit Detached	1931	74	1,949	74
One Unit Attached	20	1	18	1
2 Units	374	14	395	15
3 to 4 Units	63	2	76	3
5 to 9 Units	9	1	0	0
10 to 19	12	1	54	2
20 to 49	171	6	128	5
50 or more	0	0	30	1
Other	35	1	0.0	0
Total	2,615	100.0	2,650	100.0

Source: U.S. Census, 1990 and 2000.

Table 5
Number of Bedrooms in Housing Units: 1990 and 2000
Midland Park, New Jersey

Bedrooms	1990		2000	
	Number	Percent	Number	Percent
None	0	0	0	0
One	356	13	279	11
Two	544	21	494	19
Three	893	34	1,198	45
Four	654	25	599	23
Five or More	168	6	80	3
Total	2,615	100.0	2,650	100.0

Source: U.S. Census, 1990 and 2000.

3. Housing Age. Seventy-five percent of the borough's housing stock was constructed before 1960. Since 1990 only 32 homes (1% of the housing stock) have been built. The median age of the borough's housing stock is 60 years.

Table 6
Year Structure Built
Midland Park, New Jersey

Year Units Built	Number of Units	Percent
1999 to March 2000	0	0
1990 to 1998	32	1
1980 to 1989	108	4
1970 to 1979	268	10
1960 to 1969	272	10
1950 to 1959	729	28
1940 to 1949	341	13
1939 or earlier	900	34
Total	2,650	100.0

Source: 2000 U.S. Census

4. Housing Conditions. An inventory of the borough's housing conditions is represented in the following tables. The first table identifies the extent of overcrowding in the borough, defined as housing units with more than 1 occupant per room. In 2000, the data indicates there that 2%, or 40 units, in the borough were overcrowded.

Table 7
Occupants Per Room, 2000
Midland Park, New Jersey

Occupants Per Room	Number of Units	Percent
0.50 or less	1,910	73
0.51 to 1.00	663	25
1.01 to 1.50	40	2
1.51 to 2.00	0	0
2.01 or more	0	0
Total	2,613	100.0

Source: 2000 U.S. Census

The accompanying table presents other characteristics of housing conditions, including the presence of complete plumbing and kitchen facilities and the type of heating equipment used. As shown below, 7 units lack complete kitchen facilities in 2000 while all units have complete plumbing facilities and utilize standard heating facilities.

Table 8
Equipment and Plumbing Facilities: 1990 and 2000
Midland Park, New Jersey

Facilities	1990		2000	
	Number	Percent	Number	Percent
<u>Kitchen:</u>				
Lacking Complete Facilities	8	0	7	0
With Complete Facilities	2,607	100.0	2,643	100.0
<u>Plumbing:</u>				
Lacking Complete Facilities	0	0	0	0
With Complete Facilities	2,615	100.0	2,650	100.0
<u>Heating Equipment:</u>				
Standard Heating Facilities	2,518	99	2,248	100.0
Other Means, No Fuel Used	13	1	0	0

Source: U.S. Census; 1990 and 2000.

5. Purchase and Rental Values. The borough has seen a rise in purchase and rental housing prices between 1990 and 2000, as shown in the following tables. As shown below, the median gross rent for the borough's rental housing stock rose from \$848 in 1990 to \$1,044 in 2000.

Table 9
Specified Renter-Occupied Housing Units: 1990 and 2000
Midland Park, New Jersey

Value Range	1990		2000	
	Number	Percent	Number	Percent
Less than \$300	0	0	26	4
\$300 to \$399	15	2	0	0
\$400 to \$499	0	0	0	0
\$500 to \$599	40	6	33	5
\$600 to \$699	131	20	12	2
\$700 to \$749	34	5	36	6
\$750 to \$999	277	41	170	27
\$1,000 or more	161	24	332	53
No Cash Rent	13	2	21	3
Total	671	100	630	100
Median Rent	\$848		\$1,044	

Source: U.S. Census, 1990 & 2000.

The median value of owner-occupied housing units rose by 18 percent between 1990 and 2000, from \$217,000 to \$256,500. The borough, and the region, has seen a marked increase in housing values since the publication of the 2000 census.

Table 10
Value of Specified Owner-Occupied Housing Units: 1990 and 2000
Midland Park, New Jersey

Value Range	1990		2000	
	Units	Percent	Units	Percent
Less than \$50,000	0	0	0	0
\$50,000 to \$99,999	0	0	0	0
\$100,000 to \$149,999	88	5	47	3
\$150,000 to \$199,999	537	32	313	18
\$200,000 to \$249,999	596	36	479	27
\$250,000 to \$299,999	279	17	420	23
\$300,000 to \$399,999	137	8	413	23
\$400,000 to \$499,999	19	1	87	5
\$500,000 or more	0	0	29	1
Total	1,656	100.0	1,788	100.0
Median Value	\$217,000		\$256,500	

Source: U.S. Census, 1990 & 2000.

6. Number of Units Affordable to Low and Moderate Income Households. The median household income for a three-person household in the borough's housing region is \$69,365 according to COAH's regional income limits. A three-person moderate income household established at 80 percent of the median income or lower, would have an income of \$55,492 or less.

An affordable sales price for a three person moderate income household earning 80 percent of the median income, is estimated at approximately \$150,000. This estimate is based on the UHAC affordability controls outlined in NJAC 5:80-26.1. Approximately three percent of

the borough's housing units in 2000 were valued at less than \$150,000, according to the census data.

C. POPULATION ANALYSIS

The MLUL requires that a housing element provide data on the borough's population, including population size, age and income characteristics.

1. Population Size. Since 1900, Midland Park experienced its greatest periods of growth during the first decade of the 20th century, and the two post-war decades of the 1920's and 1950's. As predicted in the 1970 Master Plan, the borough's growth rate has declined since 1970, actually reversing for the period of 1970-2000. By the end of the century, the rate of decline had eased. It appears this trend is continuing through the current decade. The developed nature of the borough continues to be the primary determinant of population growth.

Table 11
Rate of Population Growth: 1920-2000
Midland Park, New Jersey

Year	Population	Population Change	Percent Change
1920	2,243	--	--
1930	3,638	1,395	62
1940	4,525	887	24
1950	5,164	639	14
1960	7,543	2,379	46
1970	8,159	616	8
1980	7,381	-778	-10
1990	7,047	-334	-5
2000	6,947	-100	-1
2006*	6,906	-41	-0.1

Source: Bergen County Data Book, NJ Department of Labor.

* NJ Department of Labor estimate.

Data on births and deaths is shown in the following table.

Table 12
Number of Births and Deaths: 1990-2004
Midland Park, New Jersey

Year	Births	Deaths	Change in Births/Deaths
1990	94	61	33
1991	92	60	32
1992	92	70	22
1993	101	55	46
1994	107	47	60
1995	93	40	53
1996	95	51	44
1997	115	46	69
1998	96	46	50
1999	88	39	49
2000	100	52	48
2001	78	48	30
2002	91	54	37
2003	94	68	26
2004	86	50	36

Source: State of New Jersey,
Department of Health Center for Health Statistics

2. Age Characteristics. The following table compares the age distribution of the Midland Park population in 1990 and 2000. Although the community's age distribution has not changed dramatically, a few trends are worth noting. Much of the borough's decline comes from the categories between the ages 5 to 34. Meanwhile, the largest population growth occurred within the 45 to 54 age group. Despite this trend towards an older population, the median age of Midland Park residents, 38.8 years, is just under the county average of 39.1.

Table 13
Age Characteristics: 1990 & 2000
Midland Park, New Jersey

Age	1990		2000		Net Change
	Number	Percent	Number	Percent	
Under 5	466	7	512	7	46
5-19	1,318	19	1307	19	-11
20-24	439	6	261	4	-178
25-34	1,204	17	917	13	-287
35-44	1,291	18	1347	19	56
45-54	664	10	999	14	335
55-64	669	9	599	9	-70
Over 65	996	14	1005	15	9
Total	7,047	100	6,947	100	-100

Source: U.S. Census, 1990 & 2000.

3. Average Household Size. There has been a steady decrease in the household size in Midland Park since 1960. Midland Park's household size has consistently been slightly higher than that figure for Bergen County as seen below.

Table 14
Average Household Size: 1960-2000
Midland Park, New Jersey

Year	Population	Number of Households	Household Size: Midland Park	Household Size: Bergen County
1960	7,543	2,237	3.37	3.30
1970	8,159	2,469	3.30	3.17
1980	7,381	2,600	2.84	2.76
1990	7,047	2,615	2.69	2.54
2000	6,947	2,650	2.62	2.60

Source: 2003 Bergen County Data Book.

4. Household Income. The median household income in Midland Park increased approximately 49 percent between 1989 and 1999, rising from \$51,231 to \$76,462. Detailed household income figures are shown in the table below.

Table 15
Household Income: 1989 and 1999
Midland Park, New Jersey

Income Category	1989		1999	
	Number	Percentage	Number	Percentage
Less than \$5,000	51	2	61	2
\$5,000 to \$9,999	85	3		
\$10,000 to \$14,999	169	7		
\$15,000 to \$24,999	220	9	189	7
\$25,000 to \$34,999	285	11	198	8
\$35,000 to \$49,999	406	16	302	12
\$50,000 to \$74,999	678	27	459	17
\$75,000 to \$99,999	392	15	579	22
\$100,000 to \$149,999	192	7	499	19
\$150,000 to 199,999	78	3	147	6
\$200,000 or more			139	5
Total	2,556	100	2,630	100
Median household	\$51,231		\$76,462	

Source: U.S. Census, 1990 and 2000.

D. EMPLOYMENT ANALYSIS

The MLUL requires that a housing plan include data on employment levels in the community. The following tables present information on the borough's employment characteristics.

1. Employment Characteristics of Employed Residents. The following two tables detail information on the employment characteristics of employed Midland Park residents. The first table details occupation characteristics, while the second table details industry characteristics.

Table 16
Employed Persons 16 & Over, By Occupation: 2000
Midland Park, New Jersey

Occupation	Number	Percent
Management, professional, and related occupations	1,625	43
Service occupations	437	12
Sales and office occupations	1,081	29
Farming, fishing, and forestry occupations	0	0
Construction, extraction, and maintenance occupations	344	9
Production, transportation, and material moving occupations	253	7
Total	3,740	100

Source: U.S. Census, 2000.

Table 17
Employed Persons 16 & Over, By Industry: 2000
Midland Park, New Jersey

Industry	Number	Percent
Agriculture, forestry, fishing and hunting, and mining	9	0
Construction	235	6
Manufacturing	447	12
Wholesale trade	200	5
Retail trade	428	11
Transportation and warehousing, and utilities	208	6
Information	260	7
Finance, insurance, real estate, and rental and leasing	323	9
Professional, scientific, management, administrative, and waste management services	461	12
Educational, health and social services	749	20
Arts, entertainment, recreation, accommodation and food services	139	4
Other services (except public administration)	211	6
Public administration	70	2
Total	3,740	100

Source: U.S. Census, 2000.

SECTION II: FAIR SHARE OBLIGATION

A. INTRODUCTION

The methodology for determining the borough's third round affordable housing obligation changed significantly from the methodology utilized for previous rounds. Namely, under COAH's third round rules, a municipality's third round fair share obligation is a function of three components:

- The rehabilitation share;
- The remaining prior round obligation (1987-1999); and
- The growth share.

The growth share component represents the most significant change from previous rounds, as it requires that each municipality determine its own affordable housing obligation based on the amount of residential and non-residential growth it anticipates over the third round period from 2004 to 2018. Each of the three components combines to determine the municipality's total affordable housing obligation. More detail on each of the components is provided below.

1. Rehabilitation Share

The rehabilitation share component of the affordable housing obligation is based on the municipality's existing housing deficiencies. Rehabilitation share is defined as "the number of deficient housing units occupied by low and moderate income households within a municipality." A "deficient housing unit" is "a unit with health and safety code violations that require the repair or replacement of a major system." A major system includes any of the following: weatherization, roofing, plumbing, heating, electricity, sanitary plumbing, lead paint abatement and/or load-bearing structural systems.

A municipality has two options for determining the rehabilitation share component of its fair share obligation. The first option is to use the rehabilitation share number assigned by COAH to the municipality. COAH devised a methodology using 2000 U.S. Census data to estimate the number of low- and moderate-income deficient housing units within each municipality. The methodology is based on regional averages that are then applied to local conditions. It adjusts for potential double counting, incorporates credits for municipalities which have been "increasingly impacted" by the rehabilitation share, and accounts for the portion of units likely to experience spontaneous rehabilitation, i.e., those likely to rehabilitate through private forces. Alternatively, a municipality can conduct its own housing survey to develop an actual rehabilitation share.

As detailed herein, COAH has assigned a new rehabilitation share of 16 units to Midland Park. It is recommended that the borough accept this figure.

2. Remaining Prior Round Obligation

The Prior Round Obligation is the total Fair Share Obligation for the period 1987 to 1999. As noted in Appendix C, COAH is adopting municipalities' unadjusted 1987 to 1999 obligations, first published in 1993. Accordingly, Midland Park's Prior Round Obligation is 54 units.

To determine the remaining Prior Round Obligation, a municipality imposes any adjustments approved for its second round plan and subtracts affordable housing units already built or transferred as part of a certified plan (or judgment of repose).

3. Growth Share

The growth share portion of a municipality's fair share obligation is based on the projected residential and employment growth in the municipality over the period between 2004 and 2018. It is defined as:

The affordable housing obligation generated in each municipality by both residential and non-residential development from 2004 through 2018 and represented by a ratio of one affordable housing unit among five housing units constructed plus one affordable housing unit for every 16 newly created jobs as measured by new or expanded non-residential construction within the municipality.

That is, each individual municipality's actual growth between 2004 and 2018 generates an affordable housing obligation. Job creation estimates are based on the amount of non-residential square footage developed within the community.

The following section contains the information and resultant determination of the growth share assessment.

B. CALCULATION OF AFFORDABLE HOUSING OBLIGATION

The calculation of the borough's affordable housing obligation is detailed below.

1. Rehabilitation Share

According to Appendix B of COAH's third round substantive rules, a rehabilitation share of 16 units has been assigned to Midland Park.

2. Remaining Prior Round Obligation

Appendix C of COAH's new rules indicates the borough's prior (second) round new construction obligation is 54 units.

The borough's initial second round plan addressed its 54 unit new-construction obligation through a 41 unit vacant land adjustment and credits for several projects including group homes and an age-restricted project. As a result, the borough had a 13 unit obligation or realistic development potential (RDP).

Midland Park had 30 eligible credits to apply to its obligation, providing an excess beyond the adjusted 13 unit RDP by 17 units. Additionally, Midland Park had 24 units in the Kentshire that were not eligible for credit due to caps on age-restricted development. These details are shown in the accompanying table.

Table 18
Second Round Plan Components
Midland Park, New Jersey

Plan Component	Number of Units	Status
Vacant Land Adjustment	41	Granted
Prior Cycle Credits 36 Erie Ave. (West Bergen Mental Healthcare)	7	Completed
Group Home Credits 3 Pine St. (Life Opportunities Unlimited) 4 units 14 Cross Ave (West Bergen Mental Healthcare) 4 units 190 Madison Ave (West Bergen Mental Healthcare) 4 units	12	Completed
Rental Bonus Credits	3	Completed
Age Restricted Credits Kentshire Apartments (32 total units, 8 eligible, 24 excess)	8	Completed
Total	71	

At the time of Midland Park's certification for the second round, COAH agreed that there were no viable mechanisms available to address its unmet need. COAH recommended that in addition to the development fee ordinance, the 17 excess credits noted above, and the 24 excess units from the Kentshire be applied to the unmet need. The credits alone satisfy the unmet need.

The borough seeks to apply the same mechanisms to address its Prior Round Obligation. Therefore, the prior round is completely satisfied, and any funds collected from the development fee ordinance may be applied to the growth share.

3. Growth Share Obligation

The growth share component of the borough's affordable housing obligation is calculated based on the projected amount of residential and non-residential growth anticipated between 2004 and 2018. This projected growth is initially provided in Appendix F of the COAH regulations. COAH permits adjustments to this figure based on the land capacity of a municipality. However, a municipality can also provide a detailed (actual) projection resulting from an analysis of approved, pending and anticipated development applications.

Once the detailed analysis is complete, this growth is translated into an affordable housing obligation, based on a standard of one affordable housing among five market rate units that are projected and one affordable unit for every 16 jobs that are projected to be created.

a. Initial Projection of Residential Growth Share

Appendix F of the third round regulations provides the data needed to calculate the residential growth share. The residential growth projection is determined by subtracting the number of households in 2004 from the projected household growth for the municipality in 2018. This calculation results in the estimated household growth. The following calculation details the baseline projection for Midland Park.

Table 19			
Baseline Residential Growth Projection			
Midland Park, New Jersey			
2018 Household	-	2004 Household	= Household
Estimate		Estimate	Growth
2,822		2,820	2

Source: New Jersey Council on Affordable Housing.

Based on the calculation above, COAH projects that Midland Park will experience an increase of 2 households by 2018. The regulations allow for affordable units that received credit in a first or second round certified plan, and built after January 1, 2004 to be subtracted from this projection. The regulations also allow for the exclusion of market rate units within inclusionary or mixed-use development where these affordable housing units received credit at a rate of four times the affordable units. The Kentshire age-restricted development built in 2004, contains 160 units with 20% affordable to low and moderate income households. Therefore, all of these units may be subtracted from the residential growth projection, resulting in a household growth projection of zero.

b. Actual Projection of Residential Growth Share

COAH permits municipalities to conduct a detailed analysis of historical trends, recent development activity, and pending and approved development applications to generate an actual growth projection for the community. This figure can be used as the third round figure if it exceeds the figure provided in Appendix F.

The municipal projection is determined through a series of steps and analyses, as shown below.

1) Historical Trends in Residential Development.

In this step, historical data for the years 1995-2008 YTD is presented in order to determine the borough's historical residential growth trends and to determine actual growth since 2004 (as evidenced only by certificates of occupancy). For purposes of calculating the growth share obligation, demolitions cannot be factored in the projection. However, they have been shown for information purposes to reflect actual growth in the community. Historical trends will be utilized in a forthcoming stage in order to project residential growth in years to come.

Table 20
Historical Trends in Residential Development
Analysis of Certificates of Occupancy and Demolition Permits, 1995-2008 YTD
Midland Park, New Jersey

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008 YTD
Certificates of Occupancy Issued	2	1	1	5	4	1	2	5	4	165	7	3	2	1
Demolition Permits Issued	0	0	1	1	0	1	1	2	1	2	3	5	2	0
Net Growth	2	1	0	4	4	0	1	3	3	163	4	-2	0	1

Source: NJDCA Division of Codes and Standards, Borough of Midland Park.

As shown above, the borough has experienced a low-level of residential development over the past ten years with one exception. In 2004, the Kentshire Apartments were constructed containing 128 market rate units and 32 affordable units. It is anticipated that residential development will continue to demonstrate low-levels of growth as the borough is largely developed.

2) Projected Residential Development.

The analysis of projected residential development involves documenting residential projects that have been approved, but have not yet received CO's, pending residential development applications and anticipated residential development. The analysis will include the estimated year in which the CO will likely be granted for each project.

Table 21
Projected Residential Development
Midland Park, New Jersey

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Approved											
B 4 L 19&20	5										5
Pending											
B 47 L 7			14								14
Anticipated											
Other											
Total (net)	5		14								19

3) Actual and Projected Residential Development.

The following table provides the total residential growth for 2004-2018 and includes reductions for two projects. The affordable and market rate units within the Kentshire development and a proposed 14-unit development within the Attached Single-Family Dwelling zone are excluded pursuant to the regulations which allow for market rate units to be excluded at a rate of four times the amount of affordable units.

Table 22
Actual and Projected Residential Development
Midland Park, New Jersey

Midland Park, New Jersey

	Actual					Projected										
	2004	2005	2006	2007	2008 YTD	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
COs	165	7	3	2	1											178
Approved						5										5
Pending								14								14
Anticipated																
Other																
Subtotal	165	7	3	2	1	5		14								197
Exclusions	(160)							(14)								(174)
Total	5	7	3	2	1	5		0								23

4) Determining the Residential Growth Share

Finally, the residential growth share obligation is calculated by dividing the projection by four. Using the actual projection, Midland Park's residential obligation is 5.75. This figure will be combined later in this section with the nonresidential obligation to provide the total growth share obligation.

Table 23
Residential Growth Share by Year
Midland Park, New Jersey

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Final Net Growth	5	7	3	2	6										23
Residential Growth Share	1.25	1.75	0.75	0.5	1.5										5.75

c. Initial Projection of Non-Residential Growth Share

The baseline employment growth projection for non-residential development is generated from the employment projections provided in Appendix F of the third round regulations. Employment growth is estimated based on the employment projections for 2004 to 2018. The following calculation details the baseline non-residential growth projection for Midland Park.

Table 24
Baseline Non-Residential Growth Projection
Midland Park, New Jersey

$$\begin{array}{rcl}
 \text{2018 Employment} & - & \text{2004 Employment} \\
 \text{Estimate} & & \text{Estimate} \\
 3,962 & & 3,799 \\
 \hline
 & = & \text{Employment Growth} \\
 & & 163
 \end{array}$$

Source: COAH.

d. Actual Projection of Non-Residential Growth

Like the residential growth share analysis, COAH allows municipalities to prepare detailed analysis of historical trends, pending and approved development applications, and other local knowledge to generate an actual non-residential growth projection for the borough.

The detailed projection is determined through a series of similar steps and analyses to that referenced above. The analysis is shown below.

1) Historical Trends in Non-Residential Development

In this step, historical data for the years 1995-2008 is shown. This data establishes the borough's historical non-residential growth trends and provides actual growth figures for 2004 through 2008. As with the residential analysis, non-residential growth is indicated by certificates of occupancy issued. Historical trends will be used to help predict non-residential growth. The certificates of occupancy information is based on the total square footage by type of non-residential development (i.e. office, retail, etc.).

Table 25
Historical Trends in Non-Residential Development, 1995-2008YTD
Midland Park, New Jersey

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008 YTD
Office	600	360	584	0	6,620	15,000	12,672	2,868	0	2,338	0	0	0	0
Retail	0	0	0	0	0	4,745	0	0	0	0	0	0	0	0
A-3	0	0	0	0	1,700	0	0	0	0	0	0	0	0	0
A-4	0	0	0	0	0	0	0	875	0	0	0	0	0	0
Education	0	0	0	0	0	0	0	0	0	0	0	10,103	0	0
Industrial	0	0	0	2,800	0	2,975	0	0	0	0	0	0	0	0

Source: NJDCA Division of Codes and Standards.

As shown above, the borough has experienced a modest amount of non-residential development in recent years. The majority of the activity has occurred within the office use group.

2) Projected Non-Residential Development

The analysis of actual projected development to 2018 involves the identification of all prospective non-residential projects, including those that have been approved but not yet received CO's, any pending non-residential development applications, and other anticipated residential development.

Table 26
Projected Non-Residential Development
Midland Park, New Jersey

Approved Projects	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
B 33 L 6 Office: 429 sf Storage: 2,318 sf	3.5										3.5
B 20.09 L 7.01 Commercial: 125	0.2										0.2
B 42 L 8.01 Office: 6,390		17.9									17.9
<i>Subtotal: Jobs</i>	3.7	17.9									21.6
Pending Projects	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
B 47 Lot 7 Commercial: 1,200			2.0								2.0
B 17 L 22/23 Office: 13,670				38.3							38.3
B 17 L 8 Office: 2,337			6.5								6.5
B 4 L 27/28 Office: 2,998 Storage: 2,975				11.4							11.4
<i>Subtotal: Jobs</i>			8.5	49.7							58.2
Total Jobs	3.7	17.9	8.5	49.7							79.8

COAH allows municipalities to reflect the loss of jobs associated with the demolition of occupied nonresidential space. Accordingly, there are two projects listed above that would remove occupied nonresidential space. These are noted below with their corresponding job loss.

Table 27
Projected Job Loss
Midland Park, New Jersey

Pending Projects	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
B 47 Lot 7 Office: 1,890			5.3								5.3
B 17 L 22/23 Office: 10,880				30.5							30.5
Total Jobs			5.3	30.5							35.8

3) Actual and Projected Non-Residential Development

The analysis of actual and projected growth involves the identification of all prospective non-residential projects, including those that have been approved but not yet received CO's, any pending non-residential development applications, and other anticipated residential development.

Table 28
Actual and Projected Non-Residential Development
Midland Park, New Jersey

	Actual					Projected										
	2004	2005	2006	2007	2008 YTD	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
COs	6.5															6.5
Approved						3.7	17.9									21.6
Pending								8.5	49.7							58.2
Anticipated																
Subtotal	6.5					3.7	17.9	8.5	49.7							86.3
Job Loss								(5.3)	(30.5)							(35.8)
Total	6.5					3.7	17.9	3.2	19.2							50.5

4) Comparison of Capacity Analysis and Actual/Project Growth

As indicated above, the actual projected growth is 50.5 jobs. However, using Workbook C, provided by COAH, an analysis of the vacant nonresidential zoned parcels in Midland Park indicates a capacity of 30 jobs. When combined with the actual growth from 2004 to 2008, the projection is 37 jobs. The result would incur a 2 unit affordable housing obligation. A copy of the workbook is provided in an appendix. The borough accepts COAH's adjusted figure for the purpose of calculating its growth share obligation.

e. Total Growth Share Obligation

The total growth share obligation combines the obligations for both residential and nonresidential growth. The table below show these values as calculated in this section of the document. As shown, the total growth share obligation for the borough is 8 units.

Table 29
Total Growth Share Obligation
Midland Park, New Jersey

Component	Units
Residential Growth Share	5.75
Nonresidential Growth Share	2
Total Obligation	8

f. Total Affordable Housing Obligation

As indicated previously, the total fair share obligation is the sum of the rehabilitation share, remaining prior round obligation, and the growth share. As shown below, Midland Park has a total fair share obligation of 24 units.

Table 30
Total 3rd Round Fair Share Obligation
Midland Park, New Jersey

Component	Obligation
Rehabilitation Share	16
Remaining Prior Round Obligation	0
Growth Share	8
Total 3rd Round Fair Share Obligation	24

SECTION III: FAIR SHARE PLAN

A. Plan Summary

This section of the plan details the projects, mechanisms and funding sources which will be used to meet the borough's affordable housing obligation including the growth share and rehabilitation obligation. As noted in the prior section, the borough has already satisfied its prior round obligation.

The borough has a growth share obligation of 8 units. This obligation was calculated in the previous section of this plan based on projected residential and non-residential growth in the community. The following is noted with respect to the growth share:

1. Rental Obligation (5:97-3.4). The borough is required to provide no less than 25 percent of its growth share obligation with rental units. Accordingly, Midland Park must provide 2 rental units, one of which must be a family housing unit. A family housing unit is a self-contained unit available to the general public.
2. Age Restricted Units (5:97-3.11). The borough may age-restrict a maximum of 25 percent of its growth share obligation. Midland Park may therefore restrict two units of its growth share obligation for age-restricted units.
3. Very Low-Income Units. COAH also requires municipalities to restrict a minimum of 13 percent of its growth share obligation to very low-income families. Midland Park therefore has a 1-unit obligation for a very low-income household.
4. Family Housing Units (5:97-3.9). Fifty percent of a municipality's growth share obligation must be met with family housing units. Midland Park must provide 4 family units.
5. Bonus Credits. COAH limits bonus credits such as rental bonuses, compliance bonuses and smart growth bonuses to 25 percent of the growth share obligation. Accordingly, Midland Park can receive up to 2 bonus credits.

B. Plan Components

1. **Rehabilitation Share.** The borough will satisfy its 16 unit rehabilitation share by participating in the Bergen County Home Improvement Program.
2. **Growth Share Obligation.**
 - a. **Credits.** The borough seeks credit for units within Mill Gardens, an existing assisted living facility participating in the New Jersey Medicaid Waiver program located at 36 Faner Road (Block 27, Lot 5.01). While the facility provides 10 units for eligible participants, Midland Park can only receive credit for 2 at this time based on the age-restricted cap noted above. These Medicaid units are restricted to very low income and therefore satisfy the borough's obligation for that need. A copy of the project's Medicaid policy is attached in an appendix. **(2 Credits)**

- b. Group Home. Eastern Christian Children's Retreat is currently developing a group home for the disabled, containing 4 bedrooms at 116 Hillside Avenue (Block 30, Lot 1.02). This facility will not be restricted by age. One unit from this development will contribute to the borough's rental obligation. **(4 Credits: 1 unit applied to rental obligation)**
- c. Attached Single-Family Dwelling Zone Development. The Planning Board has rezoned a piece of property and given certain approvals to permit twelve townhouses and two apartments above commercial development for a site fronting on Central Avenue and Greenwood Avenue. The zone requires on site affordable units. Accordingly, the development will include three units available to low and moderate income families. The two apartment units will be rental, and one townhouse unit will be for sale. One of the rental units will contribute to the borough's rental obligation. **(5 Credits: 3 credits for each affordable unit and 2 compliance bonus credits. 1 rental unit shall contribute to the rental obligation)**
3. Summary. As shown in the table below, Midland Park's growth share plan provides 11 credits, exceeding the growth share obligation by three units. These three units and the 8 units in Mill Gardens ineligible for credit due to caps may be utilized to contribute to future obligations.

Current conditions restrict the borough from fully complying with the 50 percent family unit requirement. The plan provides three family units where four are required. The borough therefore requests a waiver from this requirement, based on the developed nature of the borough and the limited mechanisms available to Midland Park to address its obligation.

Table 31
Growth Share Plan Components
Midland Park, New Jersey

Component	Credit	Addresses
Mill Gardens (10 Medicaid units – 2 eligible for credit due to caps)	2	• Very low income obligation (1 of 1)
Eastern Christian Children's Retreat Group Home	4	• Rental requirement (1 of 2)
Attached Single-Family Dwelling Zone Development	5	• Rental requirement (1 of 2) • Family units (3 of 4)
Total	11	
Growth Share Obligation	8	
Surplus Credits	3	

APPENDICES

APPENDIX A: SERVICE LIST



MUNICIPALITY, COUNTY SERVICE LIST

N.J.A.C. 5:96-3.7



A municipality that petitions the Council on Affordable Housing (COAH) for substantive certification or is otherwise participating in COAH's substantive certification process must include an updated service list in order for COAH to review its submittal. At the time it files or petitions for substantive certification a municipality must provide COAH with a Service List which includes the following information (Please print clearly):

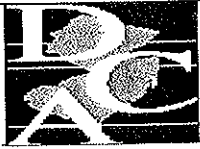
1. Current names and addresses of owners of sites included in previously certified or court settled plans that were zoned for low- and moderate-income housing and/or were to pay a negotiated fee(s). Owners of sites that have been completely developed may be excluded;

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	



MUNICIPALITY, COUNTY SERVICE LIST

N.J.A.C. 5:96-3.7



2. The names and addresses of owners of all new or additional sites included in the Fair Share Plan;

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

PROJECT NAME		BLOCK	
		LOT	
PROPERTY OWNER		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	



MUNICIPALITY, COUNTY SERVICE LIST

N.J.A.C. 5:96-3.7



3. Except for Mayors, Clerks, Municipal Attorneys and Municipal Housing Liaisons, which are automatically added to every Service List by COAH, the names and addresses of all municipal employees or designees that the municipality would like notified of all correspondence relating to the filing or petition;

NAME	<u>Kent Rigg</u>	TITLE	<u>Planning Board Chair</u>
EMAIL		PHONE NO.	
ADDRESS	<u>280 Godwin Avenue</u> <u>Midland Park, NJ 07432-1836</u>	FAX NO.	

NAME	<u>Darryl W. Siss, Esq.</u>	TITLE	<u>Planning Board Attorney</u>
EMAIL		PHONE NO.	
ADDRESS	<u>280 Godwin Avenue</u> <u>Midland Park, NJ 07432-1836</u>	FAX NO.	

NAME	<u>Joseph Burgis</u>	TITLE	<u>Planning Board Planner</u>
EMAIL		PHONE NO.	<u>201-666-1811</u>
ADDRESS	<u>25 Westwood Avenue</u> <u>Westwood, NJ 07675</u>	FAX NO.	<u>201-666-2599</u>

NAME		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

NAME		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

NAME		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	



MUNICIPALITY, COUNTY SERVICE LIST

N.J.A.C. 5:96-3.7



4. The names and addresses of relevant County, Regional and/or State entities; AND

NAME	<u>Christine Danis, PP, AICP</u> <u>New Jersey Highlands</u> <u>Council</u>	TITLE	<u>Regional</u> <u>Planner</u>
EMAIL		PHONE NO.	
ADDRESS	<u>100 North Road</u> <u>Route 513 Chester, NJ</u> <u>07930-2322</u>	FAX NO.	

NAME	<u>Karl Hartkopf</u>	TITLE	
EMAIL		PHONE NO.	
ADDRESS	<u>Office of Smart Growth,</u> <u>Dept. of Community</u> <u>Affairs</u> <u>101 South Broad Street</u> <u>PO Box 204</u> <u>Trenton, NJ 08625</u>	FAX NO.	

NAME	<u>Bergen County Department of</u> <u>Planning & Economic</u> <u>Development</u>	TITLE	
EMAIL		PHONE NO.	
ADDRESS	<u>One Bergen County Plaza</u> <u>4th Floor</u> <u>Hackensack, NJ 07601-7076</u>	FAX NO.	

NAME		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

NAME		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	



MUNICIPALITY, COUNTY
SERVICE LIST
N.J.A.C. 5:96-3.7



5. Names of known interested party(ies).

NAME	<u>Jacqui Adam</u>	TITLE	
EMAIL		PHONE NO.	
ADDRESS	<u>Allied, Inc. 1262</u> <u>White Horse-Hamilton Sq Rd.</u> <u>Bldg A, Ste 101</u> <u>Hamilton, NJ 08690</u>	FAX NO.	

NAME	<u>J. William Van Dyke</u>	TITLE	
EMAIL		PHONE NO.	
ADDRESS	<u>30 Heights Road</u> <u>Midland Park, NJ 07432-1315</u>	FAX NO.	

NAME	<u>Robert T. Regan, Esq.</u>	TITLE	
EMAIL		PHONE NO.	
ADDRESS	<u>345 Kinderkamack Road PO Box</u> <u>214</u> <u>Westwood, NJ 07675-0214</u>	FAX NO.	

NAME		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

NAME		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

NAME		TITLE	
EMAIL		PHONE NO.	
ADDRESS		FAX NO.	

APPENDIX B: DRAFT DEVELOPMENT FEE ORDINANCE

**BOROUGH OF MIDLAND PARK
BERGEN COUNTY, NEW JERSEY**

ORDINANCE NO. ____

**An Ordinance Amending XX of the Code of the Borough of
Midland Park, entitled “Developer’s fees” to Conform with the
Council on Affordable Housing’s Recently Adopted Third
Round Regulations**

WHEREAS, the purpose of this ordinance is to amend the Borough’s Code to adopt a new development fee ordinance and affordable housing trust fund ordinance that conforms with the Council on Affordable Housing’s recently adopted Third Round Regulations; and

WHEREAS, the purpose of this ordinance is to better protect the public health, safety, and general welfare of the residents of the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Midland Park as follows:

Section 1: The Code of the Borough of Midland Park shall hereby be amended by adding Section ____, to read as follows:

§ ____ . Developer’s fees

A. Purpose

- (1) In Holmdel Builders Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing’s (“COAH’s”) adoption of rules.
- (2) Pursuant to P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7),

COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring, and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

- (3) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

B. Basic requirements

- (1) This ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- (2). The Borough of Midland Park shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

C. Definitions. The following terms, as used in this ordinance, shall have the following meanings:

- (1) AFFORDABLE HOUSING DEVELOPMENT. A development included in the Housing Element and Fair Share Plan, and includes, but is not

limited to, an inclusionary development, a municipal construction project, or a 100 percent affordable development.

- (2) COUNCIL ON AFFORDABLE HOUSING. The New Jersey Council on Affordable Housing established under the Fair Share Housing Act, which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
- (3) DEMOLISHED. Any act or process that renders more than 50% of a structure or building unsafe for human occupancy or use shall be considered demolished for the purposes of this ordinance.
- (4) DEVELOPMENT FEE. Funds paid by any person for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
- (5) DEVELOPER. The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- (6) EQUALIZED ASSESSED VALUE. The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).
- (7) GREEN BUILDING STRATEGIES. Those strategies that minimize the impact of development on the environment, and enhance the health, safety, and well-being of residents by producing durable, low-

maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

- (8) LIVING SPACE. All internal areas of a dwelling with a floor to ceiling height of greater than six feet, exclusive of garages which are not to be considered as living space..
- (9) NATURAL DISASTER. A catastrophic event, such as a hurricane, flood, earthquake, volcanic eruption, landslide, blizzard, or other natural phenomena that causes extensive human casualties, property damage, or both.

D. Residential Development fees.

(1) Imposed Fees.

- (a) For all residential developments, residential developers shall pay a fee of one and one-half percent (1.5%) of the equalized assessed value for residential development, provided no increased density is permitted.
- (b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density

permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

- (2) Eligible exactions, ineligible exactions, and exemptions for residential development
 - (a) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - (b) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
 - (c) Development fees shall be imposed and collected when an existing

structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, except that expansion of an existing residential structure which increases the living space by less than 20% and/or the volume of the existing structure by less than 20% shall be exempt from paying a development fee. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

- (d) A dwelling that is constructed as a replacement for a dwelling that was demolished as a result of a natural disaster shall be exempt from paying a development fee. The dwelling that is constructed as a replacement dwelling must be constructed on the same site as the dwelling that was demolished as a result of a natural disaster.

E. Non-residential Development fees

(1) Imposed fees

- (a) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (b) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to

be used for non-residential purposes.

- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- (2) Eligible exactions, ineligible exactions, and exemptions for non-residential development.
- (a) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5%) percent development fee, unless otherwise exempted below.
 - (b) The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations, and repairs.
 - (c) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L. 2008, c.46, as specified in the Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” Form. Any exemption claimed by a developer

shall be substantiated by that developer.

(d) A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L. 2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

(e) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough as a lien against the real property of the owner.

F. Collection procedures

- (1) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- (2) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per

the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provide in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated final assessments as per the instructions provided in Form N-RDF.

- (3) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- (4) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- (5) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- (6) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- (7) Should the Borough fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for

final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L. 2008, c.46 (C.40:55D-8.6).

- (8) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

(9) Appeal of development fees

- (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- (2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge,

collected fees shall be placed in an interest bearing escrow account by the Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing Trust Fund

- (1) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- (2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) payments in lieu of on-site construction of affordable units;
 - (b) developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (c) rental income from municipally operated units;
 - (d) repayments from affordable housing program loans;
 - (e) recapture funds;
 - (f) proceeds from the sale of affordable units; and
 - (g) any other funds collected in connection with the Borough's

affordable housing program.

- (3) Within seven days from the opening of the trust fund account, the Borough shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- (4) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

H. Use of funds

- (1) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable, housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to

increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8-7 through 8.9 and specified in the approved spending plan.

- (2) Funds shall not be expended to reimburse the Borough for past housing activities.
- (3) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - (b) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall entitle

the Borough to bonus credits pursuant to N.J.A.C. 5:96-18.

- (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (4) The Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (5) No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

I. Monitoring

The Borough shall complete and return to COAH all monitoring forms included

in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

J. Ongoing Collection of Fees

The ability for the Borough to impose, collect, and expend development fees shall expire with its substantive certification on the date of expiration of substantive certification unless the Borough has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough fails to renew its ability to impose and collect development fees prior to the date of expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). The Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough retroactively impose a development fee on such a development. The Borough will not expend

development fees after the expiration of its substantive certification.

Section 2: All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are repealed, but only to the extent of any inconsistencies.

Section 3: The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional or invalid by any court, the remaining parts of this ordinance will remain in full force and effect.

Section 4: This ordinance shall take effect after review and approval by COAH and final approval and publication according to law.

Introduced and passed first reading:

Passed second reading:

ATTEST:

APPROVED BY:

Adeline Hanna, Borough Clerk

Joseph Monahan, Mayor

APPENDIX C: DRAFT RESOLUTION REQUESTING COAH TO REVIEW DEVELOPMENT FEE
ORDINANCE

WHEREAS, the Borough of Midland Park, Bergen County was granted substantive certification by the Council on Affordable Housing (COAH) on *[insert date]*; and

WHEREAS, P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), permits municipalities that are under the jurisdiction of COAH or of a court of competent jurisdiction and that have a COAH-approved spending plan to impose and retain fees on residential and non-residential development; and

WHEREAS, subject to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), N.J.A.C. 5:97-8.3 permits a municipality to prepare and submit a development fee ordinance for review and approval by the Council on Affordable Housing (COAH) that is accompanied by and includes the following:

1. A description of the types of developments that will be subject to fees per N.J.A.C. 5:97-8.3(c) and (d);
2. A description of the types of developments that are exempted per N.J.A.C. 5:97-8.3(e);
3. A description of the amount and nature of the fees imposed per N.J.A.C. 5:97-8.3(c) and (d);
4. A description of collection procedures per N.J.A.C. 5:97-8.3(f);
5. A description of development fee appeals per N.J.A.C. 5:97-8.3(g); and
6. A provision authorizing COAH to direct trust funds in case of non-compliance per N.J.A.C. 5:97-8.3(h).

WHEREAS, the Borough of Midland Park has prepared a draft development fee ordinance that establishes standards for the collection, maintenance, and expenditure of development fees consistent with COAH's regulations at N.J.A.C. 5:97-8 and in accordance with P.L.2008, c.46, Sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Midland Park, Bergen County requests that COAH review and approve the Borough of Midland Park's development fee ordinance.

Adeline Hanna
Municipal Clerk

APPENDIX D: DRAFT SPENDING PLAN

INTRODUCTION

The Borough of Midland Park, Bergen County, New Jersey has prepared a Housing Element and Fair Share Plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH on *[date of approval to be inserted once approved by COAH]* and adopted by the municipality on *[date of adoption to be inserted]*. The ordinance establishes the Borough of Midland Park affordable housing trust fund for which this spending plan is prepared.

As of July 17, 2008, the Borough of Midland Park has collected \$ *[insert amount of revenue already collected]*, expended \$ *[insert amount of funds already expended]*, resulting in a balance of \$ *[insert balance as of July 17, 2008]*. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in Commerce Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

[If your municipality maintained an affordable housing trust fund as part of a previous third round petition under N.J.A.C. 5:94 or second round substantive certification, please complete the following section.]

[Insert name of municipality] first petitioned COAH for substantive certification on *[insert earliest date of previous second or third round petition]* and received prior approval to maintain an affordable housing trust fund on *[date COAH first approved a development fee ordinance]*. As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$ *[insert trust fund balance as of December 31, 2004]*. From January 1, 2005 through July 17, 2008, *[insert name of municipality]* collected an additional \$ *[insert total revenue]* in development fees, payments in lieu of construction, other funds, and/or interest. From January 1, 2005 through July 17, 2008, *[insert name of municipality]* expended funds on the affordable housing activities detailed in section 4 of this spending plan.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of third round substantive certification, the Borough of Midland Park considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction from developers as follows:

[List affordable housing sites from inclusionary zone(s) where the developer(s) has made or committed to make a PIL along with the associated PIL amount(s). If payments in lieu have not been collected or assessed, so indicate. Please note that while all other fund sources include projected revenues, PIL funds are based only on actual revenues]

(c) Other funding sources:

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units and *[insert name of other fund(s)]*. *[If no other funds have been or are anticipated to be collected, so indicate.]*

(d) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate.

[Provide a breakdown by year for all sources of funds collected and/or anticipated during the substantive certification period. COAH will substitute actual revenue for the period between the preparation of this spending plan and COAH's approval, as entered by the municipality in the CTM system. Use and submit additional spreadsheet(s) as necessary. A sample spreadsheet format is provided below.]

SOURCE OF FUNDS	PROJECTED REVENUES-HOUSING TRUST FUND - 2008 THROUGH 2018											
	7/18/08 Through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
(a) Development fees:												
1. Approved Development												
2. Development Pending Approval												
3. Projected Development												
(b) Payments in Lieu of Construction												
(c) Other Funds (Specify source(s))												
(d) Interest												
Total												

The Borough of Midland Park projects a total of \$ *[insert total of all revenue listed above]* in revenue to be collected between July 18, 2008 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by the Borough of Midland Park:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Borough of Midland Park's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

[Provide a brief explanation of local procedures for distributing the municipality's affordable housing trust funds.]

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) **Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)**

The Borough of Midland Park will dedicate \$ *[insert amount of revenue to be dedicated]* to rehabilitation or new construction programs (see detailed descriptions in Fair Share Plan) as follows:

Rehabilitation program: \$ *[insert amount of revenues to be expended]*

New construction project(s): \$ *[insert amount of revenues to be expended, by project and total; individually list programs and projects e.g. for-sale and rental municipally sponsored, accessory apartments, etc.]*

(b) **Affordability Assistance (N.J.A.C. 5:97-8.8)**

[Municipalities are required to spend a minimum of 30 percent of development fee revenue to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income). Utilize the formulae below to project the minimum affordability assistance requirements. The actual affordability assistance minimums are calculated on an ongoing basis in the CTM system based on actual revenues.]

To initially project a funding amount that will be dedicated to affordability assistance, first subtract actual expenditures on all new construction, previously funded regional contribution agreements and rehabilitation activities from inception of the fund

through June 2, 2008 from the sum of actual and projected development fees and interest through December 31, 2018. Multiply this amount by 30 percent and then subtract actual affordability assistance expenditures from inception of the fund through December 31, 2004 from the result. The outcome of this calculation will be the total remaining funds that must be dedicated to affordability assistance for the period January 1, 2005 through December 31, 2018.

To initially project a funding amount that will be dedicated to affordability assistance for very low-income households, divide the affordability assistance figure derived from the above paragraph by three. The outcome of this calculation will be the total remaining funds that must be dedicated to very low-income affordability assistance for the period January 1, 2005 through December 31, 2018. Municipalities will receive credit against this projected minimum for affordability assistance activity from January 1, 2005 to the present.]

Projected minimum affordability assistance requirement:

Actual development fees through 7/17/2008		\$
Actual interest earned through 7/17/2008	+	\$
Development fees projected* 2008-2018	+	\$
Interest projected* 2008-2018	+	\$
Less housing activity expenditures through 6/2/2008	-	\$
Total	=	
30 percent requirement	x 0.30 =	\$
Less Affordability assistance expenditures through 12/31/2004	-	\$
PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018	=	\$
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018	÷ 3 =	\$

* Note: The 2008 portion of this projection reflects 2008 subsequent to July 17 as the remainder of 2008 is included in the actual figure reported above.

The Borough of Midland Park will dedicate \$ [insert amount of revenues to be dedicated] from the affordable housing trust fund to render units more affordable, including \$ [insert amount of revenue to be dedicated] to render units more affordable to households earning 30 percent or less of median income by region, as follows:

[List affordability assistance programs such as down-payment assistance, rental assistance, converting low-income units to very-low-income units, etc.]

(c) Administrative Expenses (N.J.A.C. 5:97-8.9)

[Municipalities are permitted to use affordable housing trust fund revenue for related administrative costs up to a 20 percent limitation pending funding availability after

programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis in the CTM system based on actual revenues.

To initially project a funding amount that will be available for administrative costs, sum all development fees actually collected since the inception of the account and all actual interest earned since the inception of the account with all projected development fees and interest projected to be collected through December 31, 2018. To this amount, add all payments in lieu of constructing affordable units and other account deposits from the inception of the account through July 17, 2008. From this total amount, subtract RCA expenditures made or contractually obligated from the inception of the account through December 31, 2018. Multiply this amount by 20 percent and then subtract actual administrative expenditures made from the inception of the account through December 31, 2004. The outcome of this calculation will be the total remaining funds that will be available to defray administrative expenses for the period January 1, 2005 through December 31, 2018.]

The Borough of Midland Park projects that \$[insert projected amount of revenue available] will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

[Provide detailed description]

4. EXPENDITURE SCHEDULE

The Borough of Midland Park intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

[In developing this spending plan, it is important to note that all funds in the municipal trust fund as of July 17, 2008 must be fully expended or committed to be expended within four years of COAH's approval of the spending plan.]

[A sample spreadsheet format is provided below.]

5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of the Borough of Midland Park has adopted a resolution agreeing to fund any shortfall of funds required for implementing *[insert types of housing programs]*. In the event that a shortfall of anticipated revenues occurs, *[insert name of municipality]* will *[describe method of handling the shortfall of funds such as a resolution of intent to bond]*. A copy of the adopted resolution is attached.

[COAH requires a municipality to pass a resolution of intent to bond or a resolution appropriating funds from general revenue for any unanticipated shortfall in a municipal rehabilitation program or municipal construction project.]

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to *[describe type of housing activities]*.

6. BARRIER FREE ESCROW

Collection and distribution of barrier free funds shall be consistent with *[insert municipality]*'s Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

[Reference section of Affordable Housing Ordinance that explains the collection and distribution of barrier free funds.]

SUMMARY

The Borough of Midland Park intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan dated *[insert date]*.

The Borough of Midland Park has a balance of \$ *[insert balance]* as of July 17, 2008 and anticipates an additional \$ *[insert total projected revenue]* in revenues before the expiration of substantive certification for a total of \$*[insert total of balance and projections]*. The municipality will dedicate \$ *[insert amount of revenue for housing activities]* towards *[insert types of housing programs]*, \$ *[insert amount of revenue for affordability assistance]* to render units more affordable, and \$*[insert amount of revenue for administrative costs]* to administrative costs. Any shortfall of funds will be offset by *[insert source of funds]*. The municipality will dedicate any excess funds toward *[insert types of housing programs]*.

SPENDING PLAN SUMMARY		
Balance as of July 17, 2008		\$
PROJECTED REVENUE July 18, 2008-2018		
Development fees	+	\$
Payments in lieu of construction	+	\$
Other funds	+	\$
Interest	+	\$
TOTAL REVENUE	=	\$
EXPENDITURES		
Funds used for Rehabilitation	-	\$
Funds used for New Construction		
1. <i>[list individual projects/programs]</i>	-	\$
2.	-	\$
3.	-	\$
4.	-	\$
5.	-	\$
6.	-	\$
7.	-	\$
8.	-	\$
9.	-	\$
10.	-	\$
Affordability Assistance	-	\$
Administration	-	\$
Excess Funds for Additional Housing Activity	=	\$
1. <i>[list individual projects/programs]</i>	-	\$
2.	-	\$
3.	-	\$
TOTAL PROJECTED EXPENDITURES	=	\$
REMAINING BALANCE	=	\$0.00

APPENDIX E: DRAFT RESOLUTION FORWARDING SPENDING PLAN TO COAH

WHEREAS, the Borough of Midland Park, Bergen County was granted substantive certification by the Council on Affordable Housing (COAH) on *(insert date)*; and

WHEREAS, the Borough of Midland Park received approval from COAH on *[insert date]* of its development fee ordinance; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or *[insert any other funds collected in connection with your municipality's affordable housing program]*;

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;

9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Borough of Midland Park, Bergen County has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Midland Park, Bergen County requests that COAH review and approve the Borough of Midland Park's spending plan.

Adeline Hanna
Municipal Clerk

APPENDIX F: ESCROW AGREEMENT BETWEEN COAH, COMMERCE BANK AND THE BOROUGH OF
MIDLAND PARK



State of New Jersey
COUNCIL ON AFFORDABLE HOUSING
101 SOUTH BROAD STREET
PO BOX 813
TRENTON, NJ 08625-0813
(609) 292-3000
FAX: (609) 633-6056
coahmail@dca.state.nj.us

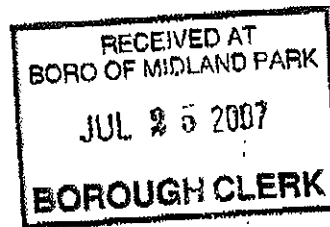
JON S. CORZINE
Governor

SUSAN BASS LEVIN
Commissioner

LUCY VOORHOEVE
Executive Director

July 9, 2007

Adeline M. Hanna, Clerk
Borough of Midland Park
280 Godwin Avenue
Midland Park, NJ 07432



Dear Ms. Hanna:

Enclosed is an executed original of the Escrow Agreement for the Housing Trust Fund for the Borough of Midland Park. A second executed original is being forwarded to the Commerce Bank under copy of this letter.

COAH has retained the third executed copy of the agreement for our files.

Please note that COAH has corrected the rule reference in Section 9. of the agreement to accurately reflect COAH's third round rules.

If you have any questions, please call Larissa DeGraw at (609) 633-9575.

Sincerely,

Lucy Voorhoeve
Executive Director

Enclosures

cc: Barbara Ramsay, Commerce Bank
Kate Butler, COAH Planner (w/o enclosure)

Tudor Park



MIDLAND PARK BOROUGH PAGE 10

**ESCROW AGREEMENT FOR THE HOUSING TRUST FUND
BETWEEN THE COUNCIL ON AFFORDABLE HOUSING (COAH),
COMMERCE BANK AND THE BOROUGH OF MIDLAND PARK**

This Escrow Agreement made this 9th day of July, 2007, by and between the Council on Affordable Housing (COAH), the Borough of Midland Park and Commerce Bank (the Bank).

WHEREAS, a municipality may impose, collect and spend development fees, payments in lieu of constructing affordable units on-site and funds from the sale of units with extinguished controls in accordance with the regulations of COAH at N.J.A.C. 5:94-6.1 et seq., and with the approval of COAH; and

WHEREAS, on March 21, 2001, COAH approved the Borough of Midland Park's Development Fee Ordinance establishing standards for the collection, maintenance and expenditure of development fees consistent with COAH's rules and requiring that funds shall only be applied directly toward implementation of the Borough of Midland Park's COAH-certified Fair Share Plan; and

WHEREAS, on October 21, 2004, the governing body of the Borough of Midland Park adopted Ordinance #09-04, the Development Fee Ordinance of the Borough of Midland Park, amending the Municipal Code; and

WHEREAS, on August 8, 2004, COAH approved the Borough of Midland Park's Spending Plan establishing standards for the expenditure of development fees, payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls pursuant to COAH's rules; and

WHEREAS, COAH's approval of the Development Fee Ordinance further requires the Borough of Midland Park, within seven days of opening the trust fund account authorized by the ordinance, to enter into an escrow agreement with COAH pursuant to N.J.A.C. 5:94-6.11(a) to enable COAH to monitor disbursement of collected development fees, payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls and to direct expenditure of such funds after proper notice if their imposition, collection and/or expenditure are not in conformance with the terms of the approved Development Fee Ordinance, the conditions set out at N.J.A.C. 5:94-6.16(a) and the spending plan approved by COAH; and

WHEREAS, the Development Fee Ordinance further provides that if COAH determines that the imposition, collection, and/or expenditure of development fees are not in conformance with the terms of the approved Development Fee Ordinance and approved spending plan, COAH may, after a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., revoke a Development Fee Ordinance approval.

NOW THEREFORE, COAH, the Borough of Midland Park and the Bank agree as follows:

1. Designation of Escrow Agent

COAH and the Borough of Midland Park hereby designate Commerce Bank (the Bank) as their escrow agent, upon terms and conditions set forth herein, for the purpose of (a) receiving development fees, payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls collected by the Borough of Midland Park, (b) holding such sums in the escrow account hereinafter described, and (c) disbursing the monies upon the direction of the Borough Clerk of the Borough of Midland Park consistent with the spending plan approved by COAH.

2. Escrow Account

The Borough of Midland Park shall deposit all development fees, payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls with the escrow agent and said escrow agent shall establish a separate, interest bearing account to be known as *[insert name of account]* (the Account) and shall deposit therein such initial funds, as well as all subsequent development fees, payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls received from the Borough of Midland Park. At no time shall the escrow agent commingle the funds deposited in the Account with any other funds or accounts held or maintained by the escrow agent, nor shall the escrow agent at any time set off any amount on deposit in the Account against (a) any indebtedness owed to the escrow agent by the Borough of Midland Park or any other party, (b) any other obligation owed to the escrow agent by the Borough of Midland Park or any other party, or (c) any claim which the escrow agent may have against the Borough of Midland Park or any other party.

3. Application of Amounts on Deposit

The funds in the Account shall only be used for eligible affordable housing activities of the Borough of Midland Park as set forth in a spending plan approved by COAH. The Bank shall disburse funds in the Account upon the direction of the Borough Clerk of the Borough of Midland Park, unless notified otherwise by COAH.

4. Cessation of Disbursements from Funds and Direction of Disbursements by COAH

COAH shall have the authority to halt disbursements by the Borough of Midland Park from the Account upon written notice to the Bank and to direct all further disbursements. COAH shall have such authority if it determines, after notice to the Borough of Midland Park, that the municipality is not in compliance with all conditions set out in N.J.A.C. 5:94-6.16(a), the Spending Plan and the Development Fee Ordinance. Upon receipt of written notice to cease disbursements from the Account, the Bank shall immediately halt disbursements by the Borough of Midland Park until further written notice from COAH. The Bank will allow disbursements by COAH on behalf of the Borough of Midland Park. COAH shall provide the Borough of Midland Park municipal clerk and chief financial officer with copies of all written notices.

IN THE SUPREME COURT OF THE STATE OF NEW JERSEY
FILED: 2017-01-12

In the event that any of the following conditions, as set out in N.J.A.C. 5:94-6.16(a) occur, COAH shall be authorized on behalf of the Borough of Midland Park and consistent with its rules, to direct the manner in which all development fees, payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be expended:

- a. Failure to meet deadlines for information required by COAH in its review of a Housing Element and Fair Share Plan, development fee ordinance or plan for spending fees;
 - b. Failure to address COAH's conditions for approval of a plan to spend development fees, payments in lieu of constructing affordable units on site and funds from re-sales of units with extinguished controls within the deadlines imposed by COAH;
 - c. Failure to address COAH's conditions for substantive certification within deadlines imposed by COAH;
 - d. Failure to submit accurate annual monitoring reports pursuant to N.J.A.C. 5:94-6.13(a) within the time limits imposed by COAH;
 - e. Failure to implement the Spending Plan and expend the funds within the time schedules specified in the Spending Plan;
 - f. Expenditure of development fees, payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls on activities not permitted by COAH;
 - g. Revocation of certification; or
 - h. Other good cause demonstrating that the revenues are not being used for the approved purpose.
5. **Standard of Care; Indemnification**
The Bank shall use reasonable care and due diligence in the performance of all of its duties hereunder. The Borough of Midland Park shall indemnify COAH and hold it harmless from and against all liabilities, losses or damages incurred under COAH with respect to any action COAH may take under this escrow agreement with the exception of liabilities, losses or damages solely caused by negligent acts, omissions, errors or willful misconduct by COAH.
6. **Records and Accounts**
The Bank shall keep accurate financial records and accounts of all transactions relating to the Account, including but not limited to all deposits to the Account, disbursements from the Account and interest earned on the Account which shall be made available for inspection by COAH and the Borough of Midland Park, or their respective designees, at any reasonable time. The Borough of Midland Park shall provide COAH with reports on an annual basis, which set forth the amount, date and description of all activity from the Account as well as other information COAH may require to monitor the Account.
7. **Notices**
All notices, certificates or other communications hereunder shall be delivered by hand or mailed by certified mail to the parties at the following addresses:

- a. If to COAH: Lucy Voorhoeve, Executive Director
New Jersey Council on Affordable Housing
101 South Broad Street, P.O. Box 813
Trenton, NJ 08625
- b. If to Municipality: Municipal Clerk and Chief Financial Officer
280 Godwin Avenue
Midland Park, NJ 07432
- c. If to Bank: Commerce Bank, North
Attention: Vicki Swarts, Ridgewood Branch Manager
133 Franklin Avenue
Ridgewood, NJ 07450

AND

Commerce Bank, North
Barbara Ramsay, Government Banker
1100 Lake Street
Ramsey, NJ 07446

AND

Commerce Bank, North
Joanne Westphall, Retail Market Manager
1100 Lake Street
Ramsey, NJ 07446

Notices to Bank shall be sent to all addresses shown in section c above; or, in each case, to such other address as shall be designated in writing by the respective party to the other parties hereto. Unless otherwise expressly provided herein, all such notices, to be effective, shall be in writing, and shall be deemed to have been duly given or made (a) when delivered by hand or by nationally recognized overnight carrier, (b) upon receipt after being deposited in the mail, certified mail and postage prepaid addressed as set forth above, provided that any notice (including, without limitation, any Notice of Cessation) received by Bank on any Business Day which relates to the Account and the services to be provided by Bank in connection therewith, as herein prescribed, shall become effective and binding upon Bank only on the next succeeding Business Day, anything in this Agreement to the contrary notwithstanding. The Bank may rely and shall be protected in acting or refraining from acting upon any notice (including but not limited to electronically confirmed facsimiles of such notice) believed by it to be genuine and to have been signed or presented by the proper party or parties.

Any of the parties may hereby designate different or additional addresses by notice in writing given to the other parties in the above outlined manner.

8. Further Assistance

The parties hereto shall authorize, execute, acknowledge and deliver such further resolutions, assurances and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and interests granted hereunder.

9. Agreement Subject to Act

5:94-6.1

This agreement is subject to the Fair Housing Act and the rules of COAH set at N.J.A.C. 5:93-8.1 et seq., and nothing contained herein shall be interpreted so as to limit or restrict in any way the discretion and authority vested in COAH by the Act or rules.

10. Amendments

This agreement may not be amended, supplemented or modified except by a written instrument executed by all the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date set forth above.

Date

Adeline M. Hanna
Adeline Hanna on behalf of the Borough of Midland Park

Date

7/9/07

Lucy Voorhoeve
Lucy Voorhoeve, Executive Director
On behalf of the New Jersey Council on Affordable
Housing (COAH)

Date

Barbara Ramsay
Barbara Ramsay, Government Banker
On behalf of Commerce Bank

APPENDIX G: DRAFT AFFORDABLE HOUSING ORDINANCE
Pending COAH Publication

APPENDIX H: DRAFT ORDINANCE CREATING THE POSITION OF MUNICIPAL HOUSING LIAISON

DRAFT
ORDINANCE NO. _____ - _____

**AN ORDINANCE TO CREATE THE POSITION OF
MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF
ADMINISTERING THE BOROUGH OF MIDLAND PARK'S
AFFORDABLE HOUSING PROGRAM PURSUANT TO
THE FAIR HOUSING ACT.**

BE IT ORDAINED by the Borough of Midland Park in the County of Bergen and State of New Jersey that the following amendments be made to Chapter xx of the Borough of Midland Park:

Section 1. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of the Borough of Midland Park's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MUNICIPAL HOUSING LIAISON – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Borough of Midland Park.

ADMINISTRATIVE AGENT – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Borough of Midland Park to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

Section 3. Establishment of Municipal Housing Liaison position and compensation; powers and duties.

- A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Borough of Midland Park.
- B. Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Midland Park, including the following responsibilities which may not be contracted out:

- (1) Serving as the Borough of Midland Park's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 - (2) Monitoring the status of all restricted units in the Borough of Midland Park's Fair Share Plan;
 - (3) Compiling, verifying, and submitting annual reports as required by COAH;
 - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - (6) If applicable, serving as the Administrative Agent for some or all of the restricted units in the Borough of Midland Park as described in F. below.
- D. Subject to approval by COAH, the Borough of Midland Park may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of the Borough of Midland Park. If the Borough of Midland Park contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- E. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.

Section 4. Severability.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

Section 5. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Adopted: (Insert date)

ATTEST:

APPROVED:

Adeline Hanna

Municipal Clerk

Joseph Monahan

Mayor

APPENDIX I: DRAFT GOVERNING BODY RESOLUTION DESIGNATING THE MUNICIPAL HOUSING
LIAISON

DRAFT
RESOLUTION APPOINTING A MUNICIPAL HOUSING LIAISON

WHEREAS, the Governing Body of the Borough of Midland Park petitioned the Council on Affordable Housing (COAH) for substantive certification of its Housing Element and Fair Share Plan on February 11, 2004; and

WHEREAS, the Borough of Midland Park's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:97-1, et. seq.); and

WHEREAS, pursuant to N.J.A.C. 5:97-7 and N.J.A.C. 5:80-26.1 et. seq., the Borough of Midland Park is required to appoint a Municipal Housing Liaison for the administration of the Borough of Midland Park's affordable housing program to enforce the requirements of N.J.A.C. 5:97-7 and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, the Borough of Midland Park has amended Chapter xx entitled Land Development to provide for the appointment of a Municipal Housing Liaison to administer the Borough of Midland Park's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Midland Park in the County of Bergen, and the State of New Jersey that Michelle Dugan is hereby appointed by the Governing Body of the Borough of Midland Park as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Sections *[insert numbers]* of the Borough of Midland Park's *[insert name of code]* Code.

Adeline Hanna
Municipal Clerk

APPENDIX J: DRAFT AFFIRMATIVE MARKETING ORDINANCE
Pending publication from COAH.

APPENDIX K: WORKBOOK B: SUMMARY OF GROWTH SHARE DETERMINATION USING MUNICIPAL PROJECTIONS

Workbook B:
Summary of Growth Share Determination Using Municipal Projections

Municipality Name: **Midland Park**

(Note: Municipalities seeking a lower growth projection based on the lack of available land may not use Workbook B. Rather, these municipalities must use Workbook C.)

[CLICK HERE to go to Workbook C](#)

This workbook contains two separate worksheets to be used for determining the projected Municipal Growth Share Obligation. Worksheet A must be completed by all municipalities. Worksheet A is the tool that allows the user to enter COAH-generated Growth Projections included in Appendix F(2) of the revised Third Round Rules to determine the Growth Share Obligation after applying exclusions permitted by N.J.A.C. 5:97-2.4. Municipalities that accept the COAH-generated Growth projections need only use Worksheet A.

[Click Here to complete Worksheet A](#)

Municipalities anticipating that growth through 2018 is likely to exceed the growth through 2018 that has been projected by COAH should complete Worksheet A and Worksheet B. Worksheet A establishes a projected Growth Share Obligation based on COAH-generated growth projections against which the municipally determined Growth Share Obligation will be compared. Municipal alternative growth projections that exceed COAH projections would be used if the municipality anticipates growth higher than what COAH has projected and seeks to plan accordingly.

[Click Here to complete Worksheet B](#)

Summary Of Worksheet Comparison

COAH Projected Growth Share	COAH Projected Growth Share (From Worksheet A)	Municipally Projected Growth Share (From Worksheet B)
Residential Growth	2	197
Residential Exclusions	174	174
Net Residential Growth	-172	23
Residential Growth Share	0.00	4.60
Non-Residential Growth	163	51
Non-Residential Exclusions	0	0
Net Non- Residential Growth	163	51
Non-Residential Growth Share	10.19	3.17
Total Growth Share	10	8

Municipal Projection does not exceed the COAH-projected Growth Share Obligation. Please Use Worksheet A and the COAH growth Projections in Appendix F2.

Worksheet B

Growth Share Determination Using Municipal Projections

Municipality Name:

Midland Park

Actual Growth 01/01/04 to Present

Residential COs Issued	178				
		Square Feet	Square Feet		
		Added	Lost		
		(COs	Demolition	Jobs/1,000 SF	Total Jobs
		Issued)	Permits		
			Issued)		
Non-residential					
CO's by Use Group					
B		2,338		2.8	6.55
M				1.7	0.00
F				1.2	0.00
S				1.0	0.00
H				1.6	0.00
A1				1.6	0.00
A2				3.2	0.00
A3				1.6	0.00
A4				3.4	0.00
A5				2.6	0.00
E				0.0	0.00
I				2.6	0.00
R1				1.7	0.00
Total		2,338	0		7

Projected Growth through 12/31/18 not included in actual above

Pending Residential Approvals	19
Known Residential Development Applications	
Additional Projected Residential Growth through 2018	

Pending, Known and Anticipated		Square Feet	Square Feet		
Non-Residential Growth by Use		Projected to	Projected to be	Jobs/1,000 SF	Total Jobs
Group		be built	Demolished		
B		25,824	12,770	2.8	36.55
M		1,325		1.7	2.25
F				1.2	0.00
S		5,293		1.0	5.29
H				1.6	0.00
A1				1.6	0.00
A2				3.2	0.00
A3				1.6	0.00
E				0.0	0.00
I				2.6	0.00
R1				1.7	0.00
Total		32,442	12,770		44

Residential

**Non-
Residential**

Total Municipal Projections From Above	197	51
Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from Worksheet A COs for prior round affordable units built or projected to be built post 1/1/04 Inclusionary Development Alternative Living Arrangements Accessory Apartments Municipally Sponsored or 100% Affordable Assisted Living Other Market Units in Prior Round Inclusionary development built post 1/1/04 Non-Residential Exclusions Pursuant to 5:97-2.4(b) Affordable units Associated Jobs	35 0 0 0 0 0 139 0 0	0 0 0 0 0 0 0 0
Net Growth Projection	23	51
Projected Growth Share Divide Residential Growth by 5 and Jobs by 16	4.60 Affordable Units	3.17 Affordable Units
Total Projected Growth Share Obligation	7.77	Affordable Units

[Click Here to return to Workbook B Summary sheet](#)

Worksheet A: Growth Share Determination Using Published Data

(From Appendix F(2), *Allocating Growth To Municipalities*)

COAH Growth Projections

Must be used in all submissions

Municipality Name:

Midland Park

Enter the COAH generated growth projections from Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. on Line 1 of this worksheet. Use the Tab at the bottom of this page or the links within the page to toggle to the exclusions portion of this worksheet. After entering all relevant exclusions, toggle back to this page to view the growth share obligation that has been calculated based on COAH's growth projections.

	Residential	Non-Residential
1 Enter Growth Projections From Appendix F(2)*	2	163
2 Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab	Click Here to enter Prior Round Exclusions	
COs for prior round affordable units built or projected to be built post 1/1/04		
Inclusionary Development	35	
Supportive/Special Needs	0	
Accessory Apartments	0	
Municipally Sponsored or 100% Affordable	0	
Assisted Living	0	
Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	139	
Subtract the following Non-Residential Exclusions Pursuant to 5:97-2.4(b)		
Affordable units	0	
Associated Jobs		0
3 Net Growth Projection	-172	163
Projected Growth Share (Conversion to Affordable Units	0.00 Affordable Units	10.19 Affordable Units
4 Divide HH by 5 and Jobs by 16)		
5 Total Projected Growth Share Obligation		10 Affordable Units

[Click Here to return to Workbook B Summary](#)

* Use Appendix F(2), Figure A.1, Housing Units by Municipality for Residential growth and Appendix F(2), Figure A.2, Employment by Municipality for Non-residential growth.

Affordable and Market-Rate Units Excluded from Growth

Municipality Name: Midland Park

Prior Round Affordable Units NOT included in Inclusionary Developments Built post 1/1/04

Development Type	Number of COs Issued and/or Projected
Supportive/Special Needs Housing	
Accessory Apartments	
Municipally Sponsored and 100% Affordable	
Assisted Living	
Other	
Total	0

Market and Affordable Units in Prior Round Inclusionary Development Built post 1/1/04

N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if rental units resulted from N.J.A.C. 5:93-5.15(c)5 incentives)

Development Name	Rental? Y/N	Total Units	Market Units	Affordable Units	Market Units Excluded
Kentshire	Y	160	128	32	128
Attached Townhouse District		14	11	3	11
		0			0
		0			0
		0			0
Total		174	139	35	139

Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development N.J.A.C. 5:97-2.4(b)

Development Name	Affordable Units Provided	Permitted Jobs Exclusion
		0
		0
		0
		0
Total	0	0

[When finished, click here to return to Worksheet A](#)

APPENDIX L: WORKBOOK C: SUMMARY OF ADJUSTED GROWTH SHARE PROJECTION BASED ON
LAND CAPACITY

Summary of Adjusted Growth Share Projection Based On Land Capacity (Introduction to Workbook C)

Municipality Name: **Midland Park**

This workbook contains two separate worksheets to be used for determining the projected Municipal Growth Share Obligation. Worksheet A must be completed by all municipalities. The Worksheet is a tool that allows the user to enter COAH-generated Growth Projections included in Appendix F(2) of the revised Third Round Rules to determine the projected Growth Share Obligation after applying exclusions permitted by N.J.A.C. 5:97-2.4. Municipalities that accept the COAH-generated Growth projections need only use Worksheet A.
[Click Here to complete Worksheet A](#)

Municipalities seeking to request a downward adjustment to the COAH-generated growth projections may do so by providing a detailed analysis of municipal land capacity. After completing this analysis, the growth projections may be lowered if the resulting growth share obligation results in a figure that is at least 10 percent lower than the projected Growth Share Obligation that would result from the COAH-generated growth projections. Actual growth must first be determined using the Actual Growth worksheet. A growth projection adjustment may only apply to any remaining growth.

[Click Here to Enter Actual Growth to Date](#)

[Click Here to Complete the Residential Parcel Inventory and Capacity Analysis](#)

[Click Here to Complete the Non-residential Parcel Inventory and Capacity Analysis](#)

Summary Of Worksheet Comparison

	COAH Projected Growth Share (From Worksheet A)	Growth Share Based on Municipal Capacity (From Worksheet C)
Residential Growth	2	178
Residential Exclusions	192	192
Net Residential Growth	-190	-14
Residential Growth Share	0.00	0.00
Non-Residential Growth	163	37
Non-Residential Exclusions	0	0
Net Non- Residential Growth	163	37
Non-Residential Growth Share	10.19	2.31
Total Growth Share	10	2

The Municipal land capacity analysis results in a reduction to the COAH-generated growth projection. Please file Workbook C and use a Residential Growth Share of 0 plus a Non-residential Growth Share of 2.31 for a total Growth Share Obligation of 2 affordable units

Growth Projection Adjustment - Actual Growth

Municipality Name:

Midland Park

Actual Growth 01/01/04 to Present

Residential COs Issued	178				
		Square Feet Added (COs Issued)	Square Feet Lost Demolition Permits Issued)	Jobs/1,000 SF	Total Jobs
Non-residential CO's by Use Group					
B		2338		2.8	6.55
M				1.7	0.00
F				1.2	0.00
S				1.0	0.00
H				1.6	0.00
A1				1.6	0.00
A2				3.2	0.00
A3				1.6	0.00
A4				3.4	0.00
A5				2.6	0.00
E				0.0	0.00
I				2.6	0.00
R1				1.7	0.00
Total		2338	0		7

[Return to Growth Projection Adjustment Summary Screen](#)

[Proceed to Inventory of Vacant Residential Land](#)

[Proceed to Inventory of Non-residential Land](#)

Midland Park Growth Projection Adjustment - Non-Residential Parcel Inventory

Block	Lot	Address	Owner	Planning Area	Urban Center (Y/N)	Sewer Service Area (Y/N)	HUC 11 NO3 Density *	Total Acreage	Constrained Acreage	Constraint Description	Remaining Buildable Acreage	Density (Jobs/Ac)	Capacity (Jobs)
2.03	1	1225 Goffle Road	Westbrook, Freder	1		Y		0.03			0.03	80.00	2.40
2.03	1	1218 Goffle Road	Cerf, Dean J.	1		Y		0.07			0.07	80.00	5.60
10	3	College Road	Village of Ridgewo	1		Y		0.09	0.09	Village of Ridgewo	0.00	80.00	0.00
17	3	29 Vreeland Avenue	Chapman, Jennie E	1		Y		0.01			0.00	80.00	0.00
19	1	1155 Paterson Avenue	Kentshire Land, LL	1		Y		0.83	0.83	Parking for Kensh	0.00	80.00	0.00
19	3	56 Goffle Road	Village of Ridgewo	1		Y		0.13	0.13	Village of Ridgewo	0.00	80.00	0.00
26.01	27	187 Patterson Avenue	Kentshire Land, LL	1		Y		6.90	6.90	Developed with K	0.00	80.00	0.00
32	4	32 Birch Street	Village of Ridgewo	1		Y		0.75	0.75	Village of Ridgewo	0.00	80.00	0.00
34	1	1278 Newton Road	Raji, Hamed H.	1		Y		0.29	0.18	100-Year floodpla	0.11	80.00	8.80
34	1	Newton Road	Village of Ridgewo	1		Y		0.32	0.32	Village of Ridgewo	0.00	80.00	0.00
34	3	190 Bank Street	190 Bank Street, LL	1		Y		0.87	0.70	100-Year floodpla	0.17	80.00	13.60
42	8	612 Godwin Avenue	Stewardship Realty	1		Y		0.56	0.56	Approved for offic	0.00	80.00	0.00
												Subtotal This Page	
												Subtotal Page 2	
												Subtotal Page 3	
												Subtotal Page 4	
												Grand Total	

[Click Here to Return to Workbook C Summary](#)

[Click Here to Proceed to Residential Parcel Inventory and Capacity Analysis](#)

* Note: Hyperlink to GIS files requires GIS software. Files must be downloaded first and then opened in a GIS Viewer.

Worksheet A: Growth Share Determination Using Published Data

(Appendix F(2), Allocating Growth To Municipalities)

COAH Growth Projections

Must be used in all submissions

Municipality Name: **Midland Park**

Enter the COAH generated growth projections form Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. on Line 1 of this worksheet. Use the Tab at the bottom of this page or the links within the page to toggle to the exclusions portion of this worksheet. After entering all relevant exclusions, toggle back to this page to view the growth share obligation that has been calculated based on COAH's growth projections.

	Residential	Non-Residential
1 Enter Growth Projections From Appendix F(2)*	2	163
2 Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab	Click Here to enter Prior Round Exclusions	
COs for prior round affordable units built or projected to be built post 1/1/04		
Inclusionary Development	32	
Supportive/Special Needs Housing	0	
Accessory Apartments	0	
Municipally Sponsored	0	
or 100% Affordable	32	
Assisted Living	0	
Other		
Market Units in Prior Round Inclusionary development built post 1/1/04	128	
3 Subtract the following Non-Residential Exclusions (5:97-2.4(b))	0	0
Affordable units		
Associated Jobs		
4 Net Growth Projection	-190	163
5 Projected Growth Share (Conversion to Affordable Units Divide HH by 5 and Jobs by 16)	0.00 Affordable Units	10.19 Affordable Units
6 Total Projected Growth Share Obligation		10 Affordable Units

[Click Here to return to Workbook C Summary](#)

* For Residential Growth, See Appendix F(2), Figure A.1, Housing Units by Municipality. For Non-residential Growth, See Appendix F(2), Figure A.2, Employment by Municipality

Affordable and Market-Rate Units Excluded from Growth

Municipality Name: Midland Park

Prior Round Affordable Units NOT included in Inclusionary Developments Built Post 1/1/04

Development Type	Number of COs Issued and/or Projected
------------------	--

Supportive/Special Needs Housing	
Accessory Apartments	
Municipally Sponsored and 100% Affordable	
Assisted Living	32
Other	
Total	32

Market and Affordable Units in Prior Round Inclusionary Development Built post 1/1/04

N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if rental units resulted from N.J.A.C. 5:93-5.15(c)5 incentives)

Development Name	Rentals? (Y/N)	Total Units	Market Units	Affordable Units	Market Units Excluded
Kentshire	Y	160	128	32	128
		0			0
		0			0
		0			0
		0			0
Total		160	128	32	128

Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development

N.J.A.C. 5:97-2.4(b)

Development Name	Affordable Units Provided	Permitted Jobs Exclusion
		0
		0
		0
		0
Total	0	0

[When finished, click here to return to Worksheet A](#)

APPENDIX M: ATTACHED SINGLE-FAMILY DWELLING ZONE ORDINANCE

**BOROUGH OF MIDLAND PARK
ORDINANCE No. 03-06**

"AN ORDINANCE TO REVISE AND SUPPLEMENT THE ZONING ORDINANCE OF THE BOROUGH OF MIDLAND PARK TO PROVIDE FOR THE ESTABLISHMENT OF A NEW ZONING DISTRICT WHEREIN ATTACHED SINGLE-FAMILY DWELLINGS ARE PERMITTED."

BE IT ORDAINED by the governing body of the Borough of Midland Park that it does hereby supplement and amend the Zoning Ordinance of the Borough of Midland Park in the following particulars:

Section 1

A new article to be designated Article 11A is hereby created and established:

Article 11A Attached Single-Family Dwelling Zone (ASFD)

Section 2

11A.1 Purpose of District

Purpose of this district is to replace inappropriate and conflicting land use arrangements with attached single family dwellings which are in close proximity to a commercial district located on collector roadways consistent with the findings and conclusions of the Midland Park master plan and the current State Development and Redevelopment Plan.

11A.2 Use Regulations

Only the following enumerated uses shall be permitted in the Attached Single-Family Dwelling Zone (ASFD):

A. Permitted Uses

Attached single-family dwellings.
Active and passive recreation areas.
Use of lands and buildings by the Borough for public purposes.

B. Accessory Uses

Off-street parking facilities, per RSIS requirements including requirements for guest parking per Residential Site Improvement Standards, Table 4.4, footnote 'b'.
Signs.
Fences and retaining walls.
Accessory uses normally incidental to a permitted use in the zone district.

11A.3 Development Standards

- a. Minimum required lot area 20,000 square feet.
 - b. Minimum required frontage upon an improved public right of way 200 feet.
 - c. The maximum attached single-family dwelling density shall not exceed 16 units to the acre.
 - d. Maximum building height shall not exceed 2 residential stories with a maximum building height of 38 feet above a single garage level.
 - e. The garage level may contain, in addition to parking, utility rooms, storage areas, recreation rooms, closets and bathrooms.
 - f. The following setbacks shall apply to all residential buildings:
 - Front Yard: 25 feet to right of way line.*
 - Side Yard: 15 feet to side property line.
 - Rear Yard: 30 feet to rear property line.
- *For the purposes of this ordinance the front lot line for property in this zone shall be along Greenwood Avenue, and the front yard shall be measured from Greenwood Avenue.
- g. Number of Buildings. Multiple principal building shall be permitted on a building lot.
 - h. No building shall contain more than 6 dwelling units.
 - i. Building Fronts. There shall be a staggered offset of a minimum of 4 feet for every two dwelling units in a row of units.
 - j. Building Coverage. Not more than 30 percent of the lot shall be covered by buildings or structures.
 - k. Total Impervious Coverage. No more than 65 percent of the lot shall be covered by a combination of buildings, accessory structures, parking areas, driveways, sidewalks and other impervious surfaces.
 - l. Minimum Open Space. Not less than 35 percent of the parcel area shall remain as open and pervious space. Such areas shall be appropriately landscaped and include a combination of ornamental trees, foundation plantings, shrubs, bushes and lawn areas.

- 12/01/2000
- m. At-grade patio features are encouraged but shall not encroach to within 15 feet or a rear or side property line. Building coverage shall be calculated without inclusion of at-grade patios.
 - n. All development in the ASFD zone shall provide on site dwelling units affordable to low and moderate income households in sufficient numbers to satisfy the "growth share" of low and moderate income housing attributed to such development consistent with the 3rd round rules promulgated by the Council on Affordable Housing (COAH).
 - o. All affordable housing units shall be affirmatively marketed in accordance with current applicable COAH rules and regulations and at all times be occupied by a certified low or moderate income household.
 - p. All affordable housing units shall be deed restricted for a period of years in accordance with current applicable COAH rules and regulations.
 - q. All affordable housing units shall at all times comply with applicable COAH uniform affordability controls.
 - r. Parking. Off-street parking shall be provided in pursuant to the standards contained in the Residential Site Improvement Standards.
 - s. Utility connections. All utilities shall be installed underground. Appropriate utility easements shall be established and conveyed to the appropriate provider.
 - t. Signs. One ground development identification sign not to exceed 20 square feet is permitted. The required setback for any identification sign shall be 5 feet from front property lines and 10 feet from all other property lines. Said sign shall not be higher than 6 feet above grade. Such sign shall be of a design complementary to the principal buildings and may be illuminated, but not from internal lights. Any identification sign shall include landscape elements that complement and replicate the landscaping associated with the principal buildings.
 - u. Privacy screens. Privacy screens or fences between dwelling units may be provided, but in no event shall they exceed a height of six feet.
 - v. Storage Areas. A minimum 500 cubic foot storage area for each dwelling unit shall be provided on-site.

11A.4 Conditional Uses in the ASFD zone

Apartment units.

Retail sales and service uses entirely contained within the confines of a building.

Mixed-use buildings.

All conditional uses in the ASFD zone shall be required to satisfy the following conditional use conditions:

- a. Parcel must meet each of the development standards pursuant to 11A.3 of this ordinance other than the parking standard. A shared parking arrangement between residential and non-residential uses is encouraged in order to promote the more efficient utilization of land. The amount of required parking for a mixed-use development shall be reduced 15% from the total which would otherwise be mandated by summing the RSIS parking requirement and the applicable non-residential parking standard.
- b. Conditional uses shall be located in a separate building from any principal permitted use. Not more than one building containing conditional uses per development is permitted.
- c. Any building containing conditional uses shall have a footprint not to exceed 1,200 square feet.
- d. A building containing conditional uses shall not exceed 2 stories or 28 feet.
- e. Buildings containing conditional uses shall be permitted in front yards with a required setback of 15 feet from adjacent street lines and 5 feet from all other property lines.
- f. Conditional uses shall be permitted one wall mounted sign on each wall surface facing a street, but in no event shall contain more than two wall signs. The maximum width of any such sign shall not exceed 12 linear feet, and the height of any such sign shall not exceed 2 feet.
- g. Buildings containing conditional uses shall maintain separate off-street parking facilities which shall be no closer than 5 feet to any property line.

Section 3

The Midland Park Zoning Map shall be and is hereby amended to establish the ASFD zone by placing the following block and lot in said zone:

Block 47 Lot 7

Section 4

This ordinance shall take effect immediately upon passage and publication as required by law.

Section 5

All Ordinances of the Borough of Midland Park which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 6

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining unaffected portions of this Ordinance.

Adeline M. Hanna, Borough Clerk

Ester Vierheilig, Mayor

Member	Motion	Second	Aye	No	Abstain	Absent
O'Hagan						
Holst						
Kruis						
Peet						
Plumley						
Pruiksma						

Introduced: January 26, 2006
 Adopted: March 9, 2006

**BOROUGH OF MIDLAND PARK
280 GODWIN AVENUE
MIDLAND PARK, NJ 07432**

ORDINANCE #03-06

"AN ORDINANCE TO REVISE AND SUPPLEMENT THE ZONING ORDINANCE OF THE BOROUGH OF MIDLAND PARK TO PROVIDE FOR THE ESTABLISHMENT OF A NEW ZONING DISTRICT WHEREIN ATTACHED SINGLE-FAMILY DWELLINGS ARE PERMITTED."

NOTICE IS HEREBY GIVEN, that the proposed Ordinance was introduced and passed on the first reading at a regular meeting of the Borough Council of the Borough of Midland Park, Bergen County, New Jersey, held on January 26, 2006, and that said Ordinance will be taken up for further consideration and final passage at the Regular meeting of the Borough Council to be held at 280 Godwin Avenue, Midland Park, New Jersey on March 9, 2006, at 8:00 P.M., or as soon thereafter will be given the opportunity to be heard concerning the same.

TAKE FURTHER NOTICE, that the Borough Clerk has posted a copy of said Ordinance on the bulletin board in Midland Park Borough Hall and will make copies of the Ordinance available to members of the general public who request the same.

Adeline M. Hanna, RMC
Borough Clerk

Proof of Publication is required
1 Reprint requested

For the February 3, 2006 issue of The Ridgewood News

**BOROUGH OF MIDLAND PARK
280 GODWIN AVENUE
MIDLAND PARK, NJ 07432**

ORDINANCE #03-06

"AN ORDINANCE TO REVISE AND SUPPLEMENT THE ZONING ORDINANCE OF THE BOROUGH OF MIDLAND PARK TO PROVIDE FOR THE ESTABLISHMENT OF A NEW ZONING DISTRICT WHEREIN ATTACHED SINGLE-FAMILY DWELLINGS ARE PERMITTED."

NOTICE IS HEREBY GIVEN, that the foregoing Ordinance was introduced at a regular meeting of the Borough Council of the Borough of Midland Park, Bergen County, held on January 26, 2006, and was passed on final reading and approved at a Regular meeting of the said Borough Council, held on March 9, 2006.

Adeline M. Hanna, RMC
Borough Clerk

Proof of Publication Required
1 Reprint Requested

For the March 3, 2006 issue of The Ridgewood News

APPENDIX N: MILL GARDENS AT MIDLAND PARK MEDICAID POLICY

Oct 24 08 02:02p

Mill Gardens

MILL GARDENS AT MIDLAND PARK Medicaid Policy

PURPOSE: To offer a limited option to residents currently living at Mill Gardens at Midland Park who have spent down their funds and individually qualify for the New Jersey Medicaid Waiver program.

POLICY: Mill Gardens is an approved assisted living provider under the assisted living component of the New Jersey Title XIX Medicaid program (the Enhanced Community Options Waiver)

The number of residents at Mill Gardens covered at any point in time under the Medicaid program will be limited to ten slots. The residents covered by Medicaid must have lived at Mill Gardens for a minimum of two years and in some cases longer.

Administration at Mill Gardens reserves the right to have a resident move to a less expensive or semi-private (shared) apartment once a resident is accepted under the Medicaid program.

It is the responsibility of the resident or Power of Attorney (POA) to notify Mill Gardens administration when resident is in their final 12 months of funds.

Mill Gardens will maintain a list of residents who have requested placement for the Medicaid program. When a slot is available at Mill Gardens, the resident or (POA) will be notified in order of the wait list. A resident will maintain their place on the list, if the resident is not currently eligible for Medicaid. The next resident on the list will be offered the slot. There is no guarantee of a Medicaid apartment once a resident receives a slot from the Medicaid program.

Payment is expected until such time as we can begin to bill for the Medicaid resident. Supplementation is available for a "non-Medicaid" room arrangement.

Holding the apartment during a client's medical leave will be determined on a case by case basis. Room and board is expected, within normal billing cycles. Once it has been determined that the resident will not return to Mill Gardens, their belongings must be removed from the apartment no later than one week after.

The resident is not generally allowed to be absent from the residence for non-medical reasons. Consequences of non-payment of Room and Board, cost share, or supplementation by 30 days of billing could result in discharge from residence.

Mill Gardens Medicaid room is a semi-private deluxe studio in AL not ALZ.

Mill Gardens will reserve the right to modify this policy in the future. Dated: 1/05

